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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

MARTIN A. LAKE,

Defendant and Appellant.

A125959

(Napa County
Super. Ct. No. CR146842)

Defendant Martin A. Lake was sentenced to an aggregate prison term of four years following his entry of a no contest plea to a charge of driving with a blood-alcohol level of 0.08 percent or more causing injury (Veh. Code § 23153, subd. (b)). He also admitted two prison term priors. (Pen. Code, § 667.5, subd. (b).) He filed a timely notice of appeal. His counsel has raised no issues and asks this court for an independent review of the record to determine whether there are any issues that would, if resolved favorably to defendant, result in reversal or modification of the judgment. (*People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436.) Defendant was notified of his right to file a supplemental brief, but has not done so. Upon independent review of the record, we conclude that no arguable issues are presented for review, and affirm the judgment, but remand the matter to the trial court to correct the abstract of judgment to reflect the imposition of a \$75 booking fee.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

On July 1, 2009, defendant drove his vehicle through a stop sign at a high rate of speed. As he crossed the intersection, his vehicle was struck by another car. Defendant

did not stop immediately after the accident. Later, he pulled his car over and another driver flagged down a police officer. The officer noticed defendant had a strong odor of alcohol and an unsteady gait. Defendant submitted to preliminary alcohol-screening with results of 0.155 and 0.158 blood-alcohol content. He was arrested for driving under the influence of alcohol. The victim's airbag deployed and he sustained a cut on the shin and a bruise on his left wrist. When contacted by the probation officer, he was still suffering from neck pain and was taking prescription pain medication.

An information was filed on July 17, 2009, charging defendant with driving under the influence and causing injury (Veh. Code, § 23153, subd. (a)) (Count 1), driving with a blood-alcohol level of 0.08 percent or more and causing injury (Veh. Code, § 23153, subd. (b)) (Count 2), and leaving the scene of an accident (Veh. Code, § 20001, subd. (a)) (Count 3). The information also alleged defendant had suffered four prior convictions resulting in prison terms.

On July 23, 2009, defendant pleaded no contest to Count 2 and admitted two of the four special allegations of having served prior prison terms. He negotiated a prison term of four years to run concurrently with a pending probation violation. Counsel stipulated to a factual basis.

On August 20, 2009, the trial court denied defendant's oral motion to withdraw his plea based on an alleged misunderstanding that he would be referred to a residential drug treatment program. The court imposed the negotiated middle term of two years for the drunk driving charge, plus one year each for the prison priors, for a total term of four years. Defendant was given 51 days' credit for time served in prejudgment custody and 24 days of conduct credit. Defendant was ordered to pay restitution to the victim in an amount to be determined. The court imposed a minimum \$200 restitution fund fine (Pen. Code, § 1202.4), a \$200 stayed parole revocation fine (Pen. Code, § 1202.45), a \$75 booking fee (Gov. Code, § 29550.3), a \$30 criminal conviction assessment fee (Gov. Code, § 70373), and a \$30 court security fee (Pen. Code, § 1465.8).

DISCUSSION

The record does not contain a certificate of probable cause. Absent a certificate of probable cause, defendant cannot challenge the validity of a no contest plea on appeal. (Pen. Code, § 1237.5; *People v. Mendez* (1999) 19 Cal.4th 1084, 1095.) Whether the court properly advised a defendant of the consequences of the plea of no contest is relevant only to the validity of the plea. (See *People v. Pinon* (1979) 96 Cal.App.3d 904, 910.)

Before accepting defendant's plea, the trial court advised him that he would be waiving his right to trial by entry of the plea. Defendant waived advisement of his constitutional rights. He was informed that he would receive the negotiated punishment of four years. He indicated his plea was voluntary. Additionally, a written plea form was filled out by defendant and signed by his counsel. Defendant acknowledged in the written plea form that he fully understood the rights he was giving up and that the plea was offered "freely and voluntarily." The attorney for defendant verified that she had explained each of defendant's rights and the consequences of the plea.

At the sentencing hearing, defendant stated that he regretted the plea agreement he had made and requested to be sent to a residential treatment program. The trial court declined to set aside the plea agreement, and imposed the sentence set forth above.

We find no sentencing errors. The term imposed for the offense was in accord with the negotiated plea, as were the consecutive sentences for the prior prison terms. The trial court was justified in imposing the restitution fines and other fees.

Defendant was represented by competent counsel throughout the proceedings. We find no legal issues that require further briefing and, therefore, affirm the judgment.

DISPOSITION

We remand this case to the trial court with instructions to amend the abstract of judgment to reflect the imposition of the \$75 booking fee and to forward a copy of the corrected document to the Department of Corrections. In all other respects, the judgment of conviction and sentence are affirmed.

Dondero, J.

We concur:

Margulies, Acting P. J.

Banke, J.